

### Judge Bradford, cont.

duction of juvenile pretrial incarceration in Marion County that is now a statewide model.

Before joining the bench, he was recruited by Marion County Prosecutor Scott Newman as Chief Trial Deputy, in which capacity he managed a staff of more than 100 attorneys for two years. He also served five years as an Assistant United States Attorney for the Southern District of Indiana, where he prosecuted major felony drug cases under United States Attorney Deborah J. Daniels. He was in private legal practice from 1986 to 1991.

A native Hoosier, Judge Bradford earned a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University School of Law-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and he is a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

Judge Bradford is a Distinguished Senior Fellow of the Indianapolis Bar Association and a member of the Marion County Bar Association, Kosciusko County Bar Association, Indiana State Bar Association, American Bar Association, and the Sagamore Inn of Courts. He has taught Indiana Continuing Legal Education Foundation trial practice seminars for more than 10 years and also teaches Forensic Science and the Law at Indiana University-Purdue University Indianapolis, where he is an adjunct instructor.

Judge Bradford is well versed in contemporary technology and media issues, having served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and case management. From 2005 to 2007, he hosted "Off the Bench with Judge Cale Bradford," a legal commentary program on Marion County's government access network.

He frequently lectures on a wide range of legal topics and in 2012 will serve as a Vice President of the Indianapolis Bar Association and on the Indiana State Bar Association Appellate

Practice Section Executive Committee.

Judge Bradford is a former director of the John P. Craine House in Indianapolis, a residential alternative to incarceration for women offenders with preschool-aged children. He is a former advisory board member of the Lawrence Youth Football League and has long been active at Castleton United Methodist Church.

He and his wife, Sam, a full-day kindergarten teacher, have five adult children.

### Judge Mathias, cont.

court records into the 21st Century.

Judge Mathias is a longtime supporter of *We the People*, a national civics education program sponsored in Indiana by the Indiana Bar Foundation. He coaches high school *We the People* teams in Indiana's 5th Congressional District and helps organize *We the People* competitions in the 3rd Congressional District. In 2010, he received the Indiana Bar Foundation's William G. Baker Civic Education Award for his contributions to civics education.

Judge Mathias has been married for 36 years and is the proud father of two sons who teach at the high school level, one in Indiana and one in Germany as a Fulbright scholar. His wife, Carlabeth, an Indiana public school teacher and counselor for 30 years, now has a private practice in which she counsels children and families and serves as a consultant to schools throughout Indiana.

Judge Mathias enjoys Macintosh computers, technology in general and photography. He also enjoys spending many Saturdays during the school year helping to build theatrical sets for Hamilton Southeastern High School.

### Judge Pyle, cont.

son Circuit Court by Gov. Daniels in 2009 and retained his seat by election in 2010. During his tenure, Judge Pyle presided over major felony trials, promoted greater use of technology in the courts, and was an advocate for problem-solving courts.

Judge Pyle enjoys motorcycle racing, playing piano, martial arts, and competitive marksmanship.

He is the son of Rudolph and Caroline Pyle, and is the proud father of his son Seth.

### Court of Appeals facts

■ Six of the court's first 19 judges served in the Civil War, all as Union soldiers or officers. Jude Posey Kime, born 1896, was the first to serve in WW1.

■ Nine Court of Appeals judges have gone on to serve the Indiana Supreme Court, including current Justice Robert D. Rucker.

■ Judge Frank M. Powers served just 33 days on the court. The longest serving judge is Patrick D. Sullivan Jr., at more than 16,000 days. He retired in 2007 but still serves as a senior judge.

■ One of the five original members of the court, Jephtha New, died from a self-inflicted pistol shot in 1892. His term was completed by his son, Willard New.

■ Another father-son pair also served on the court: Ralph N. Smith and son Russell W. Smith. An uncle-nephew pair also served: Edgar D. Crumpacker and nephew Harry L. Crumpacker.

■ Several early judges had memorable names, including Henry Clay Fox, Daniel Webster Comstock, Cassius Clay Hadley and Ira Batman.

■ Judge John C. McNutt's son, Paul McNutt, was Indiana governor from 1933-37 and appointed two judges to the Court of Appeals.

■ One foreign-born judge attained the court: George L. Reinhard was born in Bavaria in 1843, served in the Civil War and wrote "The Common Sense Lawyer."

■ Judge Thomas Faulconer made Indiana history when, as a Marion County judge, he opened his courtroom doors to TV and newspaper cameras for a celebrated murder trial in 1959. It was his first jury trial.

■ Judge Joseph H. Shea resigned his seat in 1916 to become President Woodrow Wilson's ambassador to Chile.

## COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE

FISHERS HIGH SCHOOL

### Harper v. State

#### CRIMINAL LAW ISSUE:

Whether Appellant's conviction for the Class A misdemeanor of resisting law enforcement was supported by sufficient evidence.

#### ORAL ARGUMENT:

Monday, Feb. 3, 2014  
10 a.m.

#### APPEAL FROM:

Marion Superior Court  
The Honorable  
Becky Pierson-Treacy, Judge

### Synopsis: Case No. 49A04-1305-CR-222

On Dec. 3, 2012, defendant Robin Harper ("Harper") called the police to report a domestic dispute with her husband. Indianapolis Metropolitan Police Department Officer James Gillespie ("Officer Gillespie") responded to the call.

When the officer arrived at Harper's home, she told him that she and her husband were arguing and it escalated into a shoving match. Harper informed the officers that she was not in pain and that her husband had left the home.

Officer Gillespie and fellow officer Scott Hartman ("Officer Hartman") began to search the neighborhood for Harper's husband. When they found him, the officers observed that Harper's husband was physically injured and had what appeared to be

a small puncture wound in his abdomen.

Harper's husband told the officers that Harper had attacked him with scissors and had struck him multiple times with her fist.

The officers returned to Harper's residence intending to arrest her for domestic battery. Officer Gillespie knocked on Harper's door and asked her to come outside. Harper refused to do so, and also refused the officer's request to enter her home.

Officer Gillespie then used a ruse to enter Harper's home to arrest her. Specifically, the officer asked her if she would sign a document to start protective order paperwork, and told Harper that they were going to arrest her husband.

Neither statement was true, and there were no exigent circumstances

concerning Harper at the time the statements were made.

Harper opened the door and took the officer's documents, and when she turned around to sign the documents while inside her home, Officers Gillespie and Hartman entered her house. Upon entering the residence, Officer Gillespie immediately placed Harper in handcuffs.

Harper was not wearing any shoes at the time of her arrest, so Officer Hartman accompanied her to her kitchen to retrieve them. Officer Hartman then attempted to remove Harper's wedding ring from her finger.

In response, Harper took a step forward and "rotated her shoulders in a violently quick action movement" causing the officer to lose his

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Justice, quoted

The complete independence of the courts of justice is peculiarly essential in a limited Constitution.

- Alexander Hamilton, Federalist 78

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.

- Chief Justice John Marshall

Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard.

- Justice Oliver Wendell Holmes, Jr.

The ultimate touchstone of constitutionality is the Constitution itself and not what we have said about it.

- Justice Felix Frankfurter

Law matters, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the foundation of our democracy.

- Justice Elena Kagan

Most high courts in other nations do not have discretion, such as we enjoy, in selecting the cases that the high court reviews. Our court is virtually alone in the amount of discretion it has.

- Justice Sandra Day O'Connor

Restriction on free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.

- Justice Thurgood Marshall

It is the spirit and not the form of law that keeps justice alive.

- Chief Justice Earl Warren

The day you see a camera come into our courtroom, it's going to roll over my dead body.

- Justice David Souter

Synopsis, cont.

grip on Harper’s hands. Officer Hartman then forcibly sat Harper in a kitchen chair and proceeded to remove the ring.

The officer did so because “anything that could be taken off the body has to be taken off” before transporting the individual to the Adult Processing Center at the jail in Marion County. Neither officer explained the policy to Harper prior to approaching her to remove her wedding ring.

Harper was subsequently charged with Class A misdemeanor resisting law enforcement (but not domestic battery).

Harper waived her right to a jury trial and a bench trial was held on April 15, 2013. Harper was found guilty as charged and ordered to serve 365 days. She received credit for 10 days already served and the remainder of her sentence was suspended without probation.

Harper argues that the evidence is insufficient to support her Class A misdemeanor resisting law enforcement conviction.

Specifically, Harper contends that because the arresting officer used a ruse to enter her home, the officer was not lawfully engaged in the execution of his duties when he arrested her, an element of the crime charged. She also argues that the evidence is insufficient to prove that she forcibly resisted arrest.

In response, the State asserts that Harper voluntarily opened her front door and screen door to interact with the officers, and she was lawfully arrested at the threshold of her home.

The State also argues that Harper’s act of violently twisting her shoulders to pull away from Officer Hartman’s grasp is sufficient evidence to prove that she forcibly resisted arrest.

Attorneys for the Parties

For the Appellant

**Suzy St. John** was born and raised in Indiana. She earned her B.A. from Indiana University in 2005, and her J.D. from Indiana University School of Law in Indianapolis in 2009.

Suzy was the Assistant Chief Justice of the Moot Court Board in law school and was awarded “Best Oral Argument” at a National Moot Court Competition on trademark law. She was also one of the first students enrolled in the law school’s Appellate Clinic course when it was founded by Professor Joel Schumm.

She now works full-time in the Appellate Division of the Marion County Public Defender Agency where she primarily appeals misdemeanor convictions.

Suzy is a dog lover and Hoosier basketball fan.

She has argued many times before the Court of Appeals of Indiana.

For the Appellee

**Eric P. Babbs** has been employed with the Office of the Indiana Attorney General since 2011 as a Deputy Attorney General in the Criminal Appeals Section. Mr. Babbs was born and raised in West Lafayette and graduated from Yale University in 2005, majoring in History. He earned his law degree from Notre Dame Law School in 2008, where he was a member of the Appellate Moot Court Board and the Notre Dame Journal of Law, Ethics, & Public Policy. After graduating from law school and being admitted to practice law in Indiana, Mr. Babbs worked as a judicial law clerk at the Court of Appeals of Indiana for two years. Mr. Babbs resides in Indianapolis with his wife and their three children.

Today’s Panel of Judges

The Honorable  
Cale J. Bradford  
(Marion County)

**Cale J. Bradford** has broad experience in both the state and federal legal systems, including service as a Marion County deputy prosecutor, a public defender, a federal prosecutor, a trial court judge and an appellate court judge. In addition, he has six years’ experience in private legal practice.

He was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 1, 2007. In that time, he has participated in more than 2,000 appellate decisions and more than 80 oral arguments. He has written more than 700 majority decisions, including 145 published opinions. Judge Bradford also led a successful effort to encourage the mediation of legal disputes pending before the Court of Appeals, and greatly contributed to creation of the Judicial Retention website that helps voters make informed decisions about Appellate Judges standing for retention election.

Before joining the Appeals Court, he served the people of Marion County for more than 10 years as Judge of the Marion Superior Court, including seven years in the criminal division and three in the civil division. Twice, his colleagues elected him as presiding judge of the Court.

During that tenure, Judge Bradford led two major initiatives that addressed critical criminal justice issues facing Marion County. He chaired the Marion County Criminal Justice Planning Council, which recommended improved responses to jail overcrowding, staffing and budgets. Those efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center. He also led implementation of the Annie E. Casey Foundation Juvenile Detention Alternative Initiative, which resulted in a comprehensive yet responsible re-

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The Honorable  
Paul D. Mathias  
(Allen County)

**Paul D. Mathias** is a fifth-generation Hoosier who deeply believes that Indiana is a special place to live. He is honored to serve on the Court of Appeals, where he strives daily to reflect and protect Hoosier values within the law.

Judge Mathias practiced law in Fort Wayne, concentrating in construction law, personal injury, and appellate practice. He was appointed Referee of the Allen County Small Claims Court in 1985 and served as Judge of the Allen Superior Court from 1989-2000 when he was appointed to the Court of Appeals. In 2002, he was retained by election to the court.

Judge Mathias’s professional achievements are rooted in a strong education. He attended public schools in Fort Wayne, where he was a National Merit Finalist and college scholarship recipient. In 1976 Judge Mathias graduated cum laude from Harvard University with a bachelor’s degree in General Studies, concentrating in Government. He earned his law degree in 1979 from Indiana University School of Law-Bloomington, where he was a member of the Sherman Minton Moot Court Team and the Order of Barristers.

Judge Mathias was an officer of the Indiana Judges Association from 1993-1999 and its president from 1997-1999. He is deeply honored to be one of only 92 Hoosiers to receive the Centennial Service Award from the Indiana State Bar Association, and he was named a Sagamore of the Wabash by two governors.

Judge Mathias is keenly interested in the intersection of law and technology and often consults and speaks on tech topics to attorneys and judges. As a member of the Judicial Technology and Automation Committee, he helped select the Odyssey Case Management System that brought the management of state

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The Honorable  
Rudolph R. Pyle III  
(Madison County)

**Judge Rudolph R. Pyle III** was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 27, 2012. He is presiding judge of the 4<sup>th</sup> District.

A native of Rhode Island, Judge Pyle graduated from Anderson University in 1992 with degrees in history and political science. Two years later, he earned an M.P.P. from the Thomas Jefferson Program in Public Policy at the College of William & Mary in Williamsburg, VA.

He returned to Indiana to become an Indiana State Trooper, where he served almost four years in highway patrol, criminal investigation, new-trooper training and service on the Tactical Intervention Platoon.

In 1997, Judge Pyle began his study and training to become an attorney at Indiana University Maurer School of Law-Bloomington. While in law school, he was an Indiana Conference for Legal Education Opportunities fellow and worked as a legal advisor for the Bloomington Police Dept. He was also inducted into Who’s Who Among American Law Students.

Judge Pyle was admitted to the Indiana bar in 2000 and served four years as a judicial clerk for Judge Carr L. Darden at the Court of Appeals. There, he assisted in writing and researching opinions involving criminal, contract, family and constitutional law, among others. Judge Pyle has also taught courses in public policy, constitutional law and criminal law as an adjunct professor at Anderson University.

Appointed in 2004 as a Madison County deputy prosecutor, he tried a wide range of major felony cases, including attempted murder, robbery, child molesting and rape. In that time, he also opened a private practice representing clients in criminal, civil and corporate matters.

He was appointed judge of Madi-

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